




FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

MEMORANDUM

TO: The Commissioners
Staff Director
Deputy Staff Director
General Counsel

FROM: Office of the Commission Secretary 

DATE: August 7, 2002

SUBJECT: Statement Of Reasons for MURs 4530, 4531, and 4547
John Huang

Attached is a copy of the Statement Of Reasons for MURs 4530, 4531, and 4547 signed by Chairman David M. Mason and Vice Chairman Karl J. Sandstrom.

This was received in the Commission Secretary's Office on Wednesday, August 7, 2002 at 11:21 a.m.

cc: Vincent J. Convery, Jr.
OGC Docket (5)

Attachment



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of)
)
John Huang) MURs 4530, 4531, and 4547

STATEMENT OF REASONS

On January 11, 2001, by a vote of 1-5,¹ the Commission voted not to approve the Office of the General Counsel's recommendation to find probable cause to believe that Democratic National Committee Vice Chairman for Finance John Huang violated 2 U.S.C. § 441f, a provision of the Federal Election Campaign Act of 1971, as amended, in connection with a \$10,000 contribution to the Democratic National Committee made through John Lee.²

Section 441f provides that "no person shall knowingly accept a contribution made by one person in the name of another person." In this matter, John Lee provided a \$10,000 check to the Democratic National Committee in connection with a 1996 dinner event. The evidence is insufficient to show that John Huang knew³ that the funds used to make John Lee's \$10,000 contribution came from Ateck Company, Ltd. For example, there was no indication on the face of John Lee's check suggesting that this donation was impermissible

¹ Commissioner Smith voted affirmatively for the motion. Commissioners Mason, McDonald, Sandstrom, Thomas, and Wold dissented.

² On January 11, 2001, by a vote of 6-0, the Commission voted to find probable cause to believe that John Huang solicited, accepted or received a \$10,000 contribution from John Lee in violation of 2 U.S.C. § 441e.

³ Although the Commission agrees that "knowingly" encompasses more than actual knowledge of the facts essential to this violation, several Commissioners believe that Mr. Huang would have met this scienter requirement if he knew or had reason to know such facts. See *Freeman United Coal Mining Co. v. Fed. Mine Safety & Health Review Comm'n*, 108 F.3d 358 (D.C. Cir. 1997) (looking to its own and multiple circuit court decisions deciding how to interpret "knowingly" in a statute, the court upholds a federal agency's formulation of the standard as "knowing or having reason to know"); See generally *Restatement (Second) of Agency* § 9 cmt. d (1958). These Commissioners, however, could not properly so conclude from the testimony or other evidence presented in the General Counsel's Brief dated November 2, 2000.

because it was made in the name of another. Nor was there any testimony or other evidence presented in the General Counsel's Brief dated November 2, 2000 providing a basis for the Commission to find probable cause to believe that Mr. Huang knew the contribution was made by Ateck Company, Ltd. in the name of Mr. Lee. Given that Mr. Lee was Chief Executive Officer of Ateck, a successful business, there was no reason for Mr. Huang to suspect that Mr. Lee lacked sufficient personal funds to make a contribution of this size. Therefore, with respect to this contribution, the Commission could not properly conclude that there was probable cause to believe John Huang violated 2 U.S.C. § 441f.

August 2, 2002

David M. Mason

David M. Mason
Chairman

by ESB

Karl J. Sandstrom

Karl J. Sandstrom
Vice Chairman

22-04-405-4983